



February 29, 1996

VIA AIRBORNE EXPRESS

Joseph Gowers
Remedial Project Manager
U.S. Environmental Protection Agency
Region 2
290 Broadway -19th Floor
New York, NY 10007-1866

Re: Request for Information Pursuant to Section 104(e) of CERCLA for the NL Industries, Inc. Superfund Site in Pedricktown, New Jersey

Dear Mr. Gowers:

This letter constitutes the response of Exide Corporation ("Exide") to the information request (the "Request") outlined in the February 12, 1996 letter (received by Exide on February 16, 1996) from the United States Environmental Protection Agency ("EPA") regarding the NL Industries, Inc. Superfund Site in Pedricktown, New Jersey (the "Site").

Exide asserts the following privileges, reservations of rights, and objections with regard to EPA's February 12, 1996 information request and each question therein:

- A. Exide asserts all applicable privileges it has with regard to EPA's Request including the attorney-client privilege, work product privilege, the privilege related to materials generated in anticipation of litigation, and privileges for materials which are proprietary, company confidential, or trade secret.
- B. Exide objects to the Requests on the grounds that they use undefined terms and are overbroad, vague, ambiguous, irrelevant and unduly burdensome so as to exceed statutory authority under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") and contravene Exide's constitutional rights.
- C. Exide objects to any requirement to produce documents or information already in the possession of a government agency, or already in the public domain.
- D. Exide objects to EPA's definition of "Respondent" and "you" in its information request, as the terms are overbroad and it is not possible for Exide to answer questions on behalf of all persons thereby defined.
- E. Exide hereby disavows any obligation to supplement these responses on an ongoing basis. CERCLA Section 104(e)(2) authorizes EPA to require submission of

645 Penn Street Reading, PA 19601
P.O. Box 14205 Reading, PA 19612-4205
610/378-0500 Fax 610/378-0616

information upon reasonable notice. Exide has supplied all information concerning the Site which was found during a thorough search of available records. If more information is desired, Exide respectfully requests further reasonable notice that such information is desired.

F. Exide objects to the requirement that this response be submitted under a notarized affidavit "stating that a diligent record search has been completed and that there has been a diligent interviewing process with all present and former employees who may have knowledge of the operations, hazardous substance use, storage, treatment, releases, spills, disposal or handling practices of the Respondent between January 1, 1972 and the present." Exide hereby provides relevant information and documents pursuant to EPA authority under CERCLA §104(e)(2). EPA does not, however, have the authority to require that the information be provided under a notarized affidavit.

Without waiving any of these objections, privileges, and reservations, Exide submits the following responses to EPA's inquiries:

1. Identify all persons consulted in the preparation of the answers to these Information Requests.

The following persons were involved in preparation of this information request:

Scott A. Baker
Manager, Environmental Resources
Exide Corporation, Reading, PA

Ari D. Levine
Assistant General Counsel
Exide Corporation, Reading, PA

2. Identify the location of all documents consulted, examined, or referred to in the preparation of the answers to these Requests.

The location of all documents consulted, examined, or referred to herein are in Exide Corporation's administrative office, located at 645 Penn Street, Reading, PA.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.

There are no such persons.

4. Furnish all information regarding all persons, including yourself, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of waste materials, including hazardous substances, at the Site or to the Site. This includes information supporting the Waste-in List designated as Attachment A to this Information Request and any other information detailing the following:

- a) The identification, including address and telephone number, of all persons, including yourself, who may have arranged for disposal or treatment or arranged for transportation for disposal or treatment of waste materials, including hazardous substances, at the Site or to the Site.
- b) Every date on which such arrangements took place;
- c) For each transaction arranged for, the nature of the waste material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid) and the process for which the substance was used or the process which generated the substance;
- d) The owner of the waste materials or hazardous substances so accepted or transported;
- e) The quantity of the waste materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
- f) All tests, analyses, and analytical results concerning the waste materials;
- g) The person(s) who selected the Site as the place to which the waste materials or hazardous substances were to be transported;
- h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;

- i) **Where the person identified in g., above, intended to have such hazardous substances or waste materials transported and all evidence of this intent;**
- j) **Whether the waste materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;**
- k) **The type and number of containers in which the waste materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the Site, and all markings on such containers;**
- l) **The price paid for (i) transport or (ii) disposal of (iii) both, of each waste material and hazardous substance;**

The March 15, 1991 letter to Mr. Michael H. Gilbert, USEPA Project Manager, from Mr. Jeffrey A. Leed, Director of Waste Management at Exide Corporation, provides information known to exist at that time regarding shipments of material to the Site. Since the information attached to that letter is in the possession of EPA, there is no need to provide it herein.

Sometime after March 15, 1991, NL Industries, Inc. provided Exide with copies of records (the "NL Records") which NL claims as evidence of material shipments by Exide (and Exide's predecessor ESB, Inc.) to the Site. The NL Records constitute all the new information in Exide's possession after March 15, 1991 which are responsive to this request. Accompanying this letter are three (3) boxes which contain copies of the NL Records. Instead of responding to each of the EPA enumerated inquiries above, please see the NL Records for the necessary information.

Exide's review of the NL Records reveals the following observations:

- 1. The records provided with the March 15, 1991 letter are mostly duplicative of the NL Records.
- 2. The NL Records account for shipments of 109,816,010 pounds of materials sent to the Site by Exide/ESB.
- 3. Exide is unable to explain the discrepancy between the waste-in quantity assigned to Exide/ESB of 211,762,916 pounds and the quantity

represented in the NL Records. Exide notes the following with respect to that discrepancy, however.

- a). The NL Records contained records for PRPs unrelated to Exide. Since the NL Records in Exide's possession, custody and control were upon information and belief provided by NL in the course of then-pending litigation to justify NL's calculation of Exide's "waste-in," we assume that the waste shipments by these other, unrelated PRPs were mistakenly added to Exide's total. These PRPs were: AGA Corp; C&D Batteries; Gould National, Gould, Inc.; Globe Union, Inc.; Prestolite Batteries; E.I. DuPont; East Penn; East West Tire; Edward Goldberg & Sons; Elcan Metal & Refining Corp.; Queen Metal; Curcio Scrap; Bergen Metals; Eldridge, Inc.; Elizabeth Iron & Metal; Elkins Iron & Metal; Elman's NY Rag & Metal; Eltra; Empire Scrap Co.; Erdner Brothers Inc.; and Exxon Co. USA.
- b). There are many records representing one shipment to the Site. Each of these records may have been added to the overall poundage received, thereby double-, triple- or quadruple-counting any one shipment. For example, evidence of material received at the Site can be found on a Material Receipt Report, which may be accompanied by a packing list, shipping order, weight ticket, and/or bill of lading. Each of these documents may provide the poundage of material received. Furthermore, the NL Records include: monthly and quarterly summaries of transactions for both material received and for product shipped by NL under a tolling agreement, monthly tolling account adjustments, conversion account forms, summary lists, and invoices. If these duplicative records were used to calculate Exide's share, then NL could have double-counted these shipments.
- c). Metal shipment records may have been included as material received at the Site. Metal shipments represent shipments from the Site of pure lead product produced by Site operations.
- d). Several packets of NL Records are represented as "amended," even though the same records appear in the unamended record. If these were included in the final tally, it could therefore result in double-counting.

In addition to the records discussed above, the following provides supplemental information, each letter corresponds to the lettered section in the information request.

Joseph Gowers
February 29, 1996
Page 6

- c). The process generating the materials identified in the referenced boxes is lead-acid battery manufacturing.
- j). The records indicate that shipments were direct from generator to the NL Pedricktown facility.

5. Furnish all documents containing any information requested in request 4., above.

See the records accompanying this letter, as discussed above.

6. Identify all persons with knowledge, information, or documents responsive to requests 4. and 5., above.

See the response to Information Request number 1.

If you have any questions, or need additional information, do not hesitate to contact me at 610-378-0852.

Very Truly Yours,

EXIDE CORPORATION



Ari D. Levine
Assistant General Counsel

Enclosures